

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Stratesphere LLC, et al.,

Plaintiffs,

Case No. 2:20-cv-2972

v.

Judge Michael H. Watson

Kognetics Inc.,

Magistrate Judge Vascura

Defendant.

OPINION AND ORDER

Kognetics Inc., Inderpreet Thukral, and Rajeev Vaid (collectively, “Kognetics”) move to execute the injunction bond. ECF No. 164. Kognetics Holding Company LLC, Kognetics LLC, and Stratesphere LLC (collectively, “Stratesphere”) oppose. ECF No. 167. No final judgment has been entered yet.

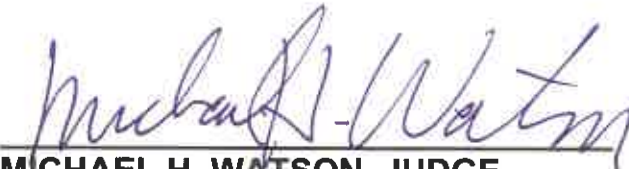
In this Circuit, and others, a party generally may not recover on an injunction bond until final judgment is entered. *See, e.g., Static Control Components, Inc. v. Lexmark Int’l, Inc.*, 869 F.Supp.2d 800, 804 (E.D. Ky. 2012) (noting that “there can be no recovery of damages caused by a preliminary injunction, even if set aside, unless final judgment *after* trial is in favor of the party who has been enjoined” (citing cases)); *In re Rest. Servs., Inc.*, 26 B.R. 215, 218 (Bankr. W.D. Ky. 1982) (same); *Olin Water Servs. v. Midland Rsch. Labs., Inc.*, 774 F.2d 303, 308 (8th Cir. 1985) (“The appellants cannot recover on the injunction bond until there has been a final judgment after trial in their favor.”); *Old Town Neighborhood Ass’n, Inc. v. Kauffman*, No. 1:02 CV 1505 DFH, 2004

WL 2278748, at *5 (S.D. Ind. Aug. 20, 2004) (“In general, no liability can arise on an injunction bond unless there is a final judgment in favor of the party enjoined.” (cleaned up and citing cases)). True, Kognetics points to an out-of-circuit case that suggests executing the injunction bond at this time would not be improper. Mot. 4, ECF No. 164 (citing *Pro Edge L.P. v. Gue*, 451 F.Supp.2d 1026, 1032 (N.D. Iowa 2006)). Nonetheless, the Court follows the trend in *this* Circuit and concludes that Kognetics’ motion is premature.

Accordingly, Kognetics’s motion, ECF No. 164, is **DENIED WITHOUT PREJUDICE** to refiling after final judgment is entered.

The Clerk shall terminate ECF No. 164.

IT IS SO ORDERED.


MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT